

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
REGULAR MEETING
MINUTES

August 9, 2011

Chairman R. Hilt called the meeting to order at 4:02 p.m. and roll was taken.

MEMBERS PRESENT: E. Fordham, R. Hilt, J. Clingman-Scott, S. Wisneski, S. Brock

MEMBERS ABSENT: B. Larson, T. Halterman

STAFF PRESENT: M. Franzak, D. Renkenberger

OTHERS PRESENT: T. Witmer, 1201 Jefferson; J. Pratt, 1192 Jefferson; D. Wells, 1077 Jefferson; R. Campbell

APPROVAL OF MINUTES

A motion that the minutes of the regular meeting of December 14, 2010 be approved was made by J. Clingman-Scott, supported by E. Fordham and unanimously approved.

ELECTION OF OFFICERS

A motion to retain R. Hilt as Chairman and E. Fordham as Vice-Chairman was made by S. Brock, supported by J. Clingman-Scott and unanimously approved.

PUBLIC HEARINGS

Hearing Case 2011-001: Request for a variance from Section 2334: Signs, to allow a sign to be erected, exceeding the allowed number of signs at First Congregational Church, 1201 Jefferson Street, by Tim VanDerHaar. Zoning of the subject parcel is R-1, Single Family Residential. Zoning of adjacent parcels to the west is B-2, Convenience and Comparison Business, with R-1 zoning to the north, east and south. The Zoning Ordinance allows for one monument sign per property in residential zoning districts. There are currently two signs on this property; however, they were erected in the 1950s and have been maintained ever since. At that time, there were no limits on the number of monument signs in residential zoning districts, so the additional sign is considered to be legally non-conforming. To continue its grandfathered status, the signs may not be replaced, but may be repaired. The applicant believes that the signs are too old and are beyond repair, and is therefore requesting a variance to allow the two signs to be replaced. The new signs would be placed in the same location as the current signs. Since both signs are larger than the 32-square-foot size limit, they will also need a variance for the size, which is the subject of the following case, 2011-002. The church property has 500 feet of frontage on Jefferson Street, 307 feet of frontage on Third Street, 156 feet of frontage on First Street and 137 feet of frontage on Monroe Avenue. Because the property is unusually large for a City residential district and has frontage on several streets, having the two monument signs on opposite sides of the building as proposed would make it much easier for people to find the church. C. Schilleman owned the property at 1185 3rd Street and called to state that he had no objection to the request.

S. Brock asked how much bigger the new signs were than the old. M. Franzak provided the new sign measurements and the ordinance sign size requirements. T. Witmer stated that the current signs were old and needed to be replaced. He stated that the scope and design of the new signs would complement the church and improve the looks of the property. J. Pratt owned property across from the church and supported the request. J. Clingman-Scott agreed that the size of the property and its placement made the two signs necessary. E. Fordham stated that the signs were attractive in design and would not be a detriment to the neighborhood.

A motion to close the public hearing was made by J. Clingman-Scott, supported by S. Brock and unanimously approved.

The following findings of fact were offered: a) That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district, b) That such dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity, c) That the authorizing of such dimensional variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest, d) That the alleged difficulty is caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner, e) That the alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner, and f) That the requested variance is the minimum action required to eliminate the difficulty.

A motion that the findings of fact be adopted and that the variance request to allow an additional monument sign for this property be approved, subject to the conditions that 1) the additions to the property must be complete within one year (Sec. 2504) or the variance is void, 2) the additional signage is built and located as indicated in Case 2011-001, and 3) the variance is recorded with the deed to keep record of it in the future, was made by J. Clingman-Scott, supported by S. Brock and unanimously approved.

Hearing Case 2011-002: Request for a variance from Section 2334: Signs, to allow a sign(s) to be erected at 1201 Jefferson Street, exceeding the 32-foot allowed size limit, by Tim VanDerHaar, First Congregational Church. M. Franzak presented the staff report. This property is a church located on a large parcel in an R-1, Single Family Residential zoning district. Zoning of properties to the north, east and south is also R-1, with B-2, Convenience and Comparison Business to the west. The Zoning Ordinance allows monument signs with a maximum size of 32 square feet, with eight feet in height. The requested signs are each about 57 square feet and seven feet in height. There are currently two signs on this property that are considered legally non-conforming because they are pole signs, not monument signs. They were approved in the 1950's before the zoning ordinance was changed to allow only monument signs. The proposed new signs are monument signs, but larger than the allowed size. The signs would be visible from both directions traveling on Jefferson Street and Third Street. The church property has 500 feet of frontage on Jefferson Street, 307 feet of frontage on Third Street, 156 feet of frontage on First Street and 137 feet of frontage on Monroe Avenue. C. Schilleman owned the property at 1185 3rd Street and called to state that he had no objection to the request.

R. Hilt asked if the signs would be lighted. M. Franzak stated they would not. Board members discussed the uniqueness of this property, as discussed in the previous case. They concurred that

larger signs were a reasonable request, considering the size and location (multiple street frontages) of the property.

A motion to close the public hearing was made by J. Clingman-Scott, supported by S. Brock and unanimously approved.

The following findings of fact were offered: a) That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district, b) That such dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity, c) That the authorizing of such dimensional variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest, d) That the alleged difficulty is caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner, e) That the alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner, and f) That the requested variance is the minimum action required to eliminate the difficulty.

A motion that the findings of fact as determined by the Zoning Board of Appeals be adopted, and the variance request to allow construction of two monuments signs that are each 57 square feet in size be approved, with the conditions that 1) the additions to the property must be complete within one year (Sec. 2504) or the variance is void, 2) the signs are built as shown on the included drawings, with staff being allowed to approve minor changes that do not enlarge the overall size of the sign, and 3) the variance is recorded with the deed to keep record of it in the future, was made by S. Brock, supported by E. Fordham and unanimously approved.

Hearing Case 2011-003: Request for a variance from Section 2311: Accessory Structures, to allow a gazebo to be placed in a front yard at 1077 Jefferson Street by Deborah Wells of Jefferson Towers. M. Franzak presented the staff report. Jefferson Towers is a senior living complex zoned RM-3, High Density Multiple Family District. They would like to erect a gazebo on the grounds for their residents' use. A gazebo is considered an accessory structure and as such, they are not allowed in front yards. The zoning ordinance defines a front yard as the space between the road and the front of the principal structure. Principal structures on corner lots will have multiple front yards. Jefferson Towers has road frontage on all four sides of the building; therefore, according to the ordinance, they have four front yards and no side or back yards. They would like to place the gazebo on the Hamilton Ave. side of the building. It would be located 12 feet, 1 inch from the property line on Hamilton and 23 feet from the principal structure, which is well within the ordinance setback requirement of at least three feet from the property line. The gazebo measures 8 feet, 11 inches at its longest point and is 12 feet tall. The zoning ordinance states that structures can only cover up to 50% of the lot in residential districts. Currently, structures take up about 30% of the property, and the addition of the gazebo will not significantly change that amount. Properties to the north of the proposed gazebo location are zoned B-1, Limited Business District and are currently used as parking lots. Properties to the west are zoned R-1, Single Family Residential. Adjacent properties in other directions would not be negatively affected by a gazebo.

D. Wells stated that an Eagle Scout had approached them about doing the gazebo project, and they were very excited about the possibility of an outdoor seating area for their residents. If they were to follow the ordinance, there would be nowhere on the property where the gazebo would

be allowed, due to the four “front yards” they have. There is a City parking lot taking up the entire block across the street from the proposed gazebo location, so no neighbors would be negatively affected. D. Wells stated that the gazebo would beautify the property and would be handicap-accessible. E. Fordham asked if the gazebo would be open or enclosed, and if there would be lighting. D. Wells stated that it would be open, with no lighting. She stated that the City Inspection Department had already reviewed and approved the plans. R. Campbell lived near Jefferson Towers and was in favor of the request.

A motion to close the public hearing was made by J. Clingman-Scott, supported by S. Wisneski and unanimously approved.

The following findings of fact were offered: a) That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district, b) That such dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity, c) That the authorizing of such dimensional variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest, d) That the alleged difficulty is caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner, e) That the alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner, and f) That the requested variance is the minimum action required to eliminate the difficulty.

A motion that the findings of fact as determined by the Zoning Board of Appeals be adopted, and the variance request to allow construction of a gazebo in the front yard on the Hamilton Avenue side of the property at 1077 Jefferson Street be approved, subject to the conditions that 1) the additions to the property must be complete within one year (Sec. 2504) or the variance is void, 2) the gazebo is built as shown on the included drawings, with staff being allowed to approve minor changes that do not enlarge the overall size of the structure, and 3) the variance is recorded with the deed to keep record of it in the future, was made by J. Clingman-Scott, supported by S. Wisneski and unanimously approved.

OLD BUSINESS

None

OTHER

None

There being no further business, the meeting was adjourned at 4:27 p.m.